

1 courthouse. Last year, Judge Alsup found that the defendant absconded from supervision shortly before
2 he was to be sentenced for violations of his supervised release. Then, just months ago, the Bureau of
3 Prisons filed two escape notices after the defendant arrived at the halfway house to serve the remainder
4 of his federal sentence. There is no reason to think this time will be any different. The Court said it best
5 at one of the recent hearings: when things do not go his way, the defendant takes matters into his own
6 hands. It's only a matter of time before something in this case does not go the defendant's way and he
7 takes matters into his own hands. No ankle monitor is going to change that.

8 The United States appreciates the Court's sentiments about how things might be easier if the
9 defendant was released. The United States had to consider that very question when it moved for the
10 defendant's detention and when it decided to charge the defendant in the first place. Things would have
11 been easier if the United States did neither of those things. But just because it's easier doesn't make it
12 right. The United States felt it was right to charge the defendant and move for detention and so it did so,
13 despite knowing how difficult things might prove to be.

14 The last thing the Court should consider here is release. And not just because of the defendant's
15 history of escape and non-appearance, which favors detention. The Court must also consider the
16 message it sends to both this defendant and other defendants if it orders the defendant's release: behave
17 poorly and make life as difficult as possible for everyone around you—for the Court, the Marshals, jail
18 personnel—and you will be rewarded with release. That is the opposite of the message the Court should
19 be sending to this defendant and to others.

20 On the matter of detention, Judge Hixson got it right: the defendant should be detained pending
21 trial. And if the defendant feels Judge Hixson got it wrong, the Court can give him an opportunity to
22 prove it while he's in custody. Let him prove that he can behave himself while in custody and let him
23 do so for a not-insignificant period. And if he does that, the Court could then consider the changed
24 circumstances that might justify the defendant's release. The United States is skeptical that he will be
25 able to contain himself; the defendant's misbehavior in the short amount of time since he returned to
26 California in May 2024 has resulted in two escape notices and his removal from Santa Rita Jail and
27 transfer to San Francisco County Jail. But under this approach, the defendant is given a chance. The
28 ball is in his court.

1 The government's proposed approach—detention until the defendant demonstrates that his
2 behavior has actually changed—strikes a balance between the Court's and the parties' collective interest
3 in moving this case along expeditiously and the government's concern that the defendant will abscond,
4 for the fifth time.

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Respectfully submitted,

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